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 U.S. DISTRICT COURT E.D.N.Y.
 ★ APR 08 2005 ★
 PLATT, J.
 BOYLE, M.J.

UNITED STATES DISTRICT COURT BROOKLYN OFFICE
 FOR THE EASTERN DISTRICT OF NEW YORK

GOOGLE INC.,
 a Delaware corporation,

Plaintiff,

v.

RICHARD WOLFE d/b/a
 FROOGLES.COM,
 an individual,

Defendant.

Civ. Action No. _____

COMPLAINT

JURY TRIAL DEMANDED

Google Inc. v. Wolfe

Doc. 1

Plaintiff, GOOGLE INC., for its complaint, alleges as follows:

THE PARTIES

1. Plaintiff Google Inc. ("Plaintiff" and/or "Google") is a Delaware corporation with its principal place of business located at 1600 Amphitheatre Parkway, Mountain View, California 94043.
2. Defendant Richard Wolfe d/b/a FROOGLES.COM ("Defendant" and/or "Wolfe") is an individual who, on information and belief, resides in Holtsville, New York.

JURISDICTION AND VENUE

3. This is an action for trademark infringement, false designation of origin and false representation and description, and dilution in violation of the Lanham Act [15 U.S.C. §§ 1114 and 1125(a) and (c)], dilution in violation of New York General Business Law section 360-1, unfair competition under the common law of the State of New York, and a declaratory judgment of non-infringement under 28 U.S.C. §§ 2201 and 2202, all of which activities have occurred in this district.
4. This action results from Defendant's use of and claims of ownership rights in the name FROOGLES.COM and the shortened version thereof, namely, FROOGLES, in connection with Internet shopping and search engine services in infringement and dilution of Plaintiff's trademark and service mark GOOGLE for its Internet search engine and related goods and services, as more fully set forth below.
5. This court has jurisdiction pursuant to 15 U.S.C. §§ 1121, 1116, and 1119, as well as 28 U.S.C. §§ 1331, 1338, 1367, 2201, and 2202, in that this action arises under the Lanham Trade Mark Act, 15 U.S.C. §§ 1051 *et seq.* and includes substantial and related state law claims joined with its federal trademark claims; and Plaintiff seeks declaratory relief, an injunction, and rectification of the register of the U.S. Patent and Trademark Office.
6. Venue is founded on 28 U.S.C. §§ 1391 (b) in that the claim arises in this district and, on information and belief, Defendant resides in this judicial district.

FACTUAL BACKGROUND

A. GOOGLE'S COMMERCIAL ACTIVITIES, PRODUCTS AND SERVICES

7. Google owns and operates the world's most popular and famous Internet search engine. Google's mission is to organize the world's information, making it universally accessible and useful.
8. Google was founded in 1997 by two Stanford University students. Google's unique technology platform had an immediate impact on the Internet world and catapulted the GOOGLE Internet search engine and brand name GOOGLE to worldwide prominence.
9. Unlike directory-style information location tools on the Internet in Google's early days, Google offered users of its search engine a flexible tool for user-defined searches to look for any type of information on the Internet. The GOOGLE search engine offers Internet users an easy-to-use interface, advanced search technology, and a comprehensive array of search tools.
10. Since its early days, Google's search engines have indexed virtually all types of web sites, including shopping and e-commerce sites.
11. Since its inception, Google has enjoyed spectacular growth and success, and has continuously and steadfastly pursued its mission as described above.

12. During the fall of 1998, Google answered 10,000 search queries each day. By early 1999, Google was answering more than 500,000 queries per day. When AOL/Netscape selected Google as its web search service, search queries exceeded 3 million per day.
13. By 2000, millions of users used Google each day to search for products and product-related information related to their purchase decisions. Attached to this Complaint as Exhibit 1 is a copy of a 2000 interview with Google co-founder Sergey Brin highlighting that fact. As noted in the interview, Google included major e-commerce web sites such as Amazon.com in its search engine, facilitating users' searches for products and services online.
14. By 2000, Google had entered into strategic relationships with both Netscape and Yahoo!, then the most popular Internet browser provider and the leading Internet portal, respectively, which dramatically increased its visibility in the marketplace.
15. In 2000, Google initiated "keyword" advertising programs, which allowed companies selling products or services to advertise on Google's search result pages and allowing them to tailor their advertising to the terms being searched or displayed in search results. Google thus allowed advertisers to deliver extremely relevant e-commerce advertising to Google users.
16. The GOOGLE search engine has received widespread unsolicited favorable publicity in trade and consumer media from its earliest days. Copies of representative publicity

relating to Google and its GOOGLE Internet search engine services are attached hereto as Exhibit 2. In late 1999, Google appeared on Time Magazine's Top Ten Best Cybertech list for 1999. Also in 1999, Google received the PC Magazine Award for Technical Excellence and was listed among PC Magazine's Top 100 Web sites. Other publications that prominently featured Google that year included Newsweek, the Washington Post, Scientific American, USA Today, PC Week, Forbes, PC World, Business Week, The New York Times, Fortune, and the New York Post.

17. In the year 2000, Google won the following awards from prominent consumer and trade media:

MONTH	AWARD
January 2000	Yahoo! Internet Life: Best Search Engine on the Internet About.com: Top Ten of 1999 Best of the Net Smart Computing Magazine: 50 Hot Technologies Wall Street Executive Library: Best of the Net
March 2000	San Francisco Chronicle: Best of the Web 2000 The Net: Best Search Engine
April 2000	PC Magazine: Top 100 Web Sites
May 2000	TIME Digital: Top 10 Sites The WEBBY Awards: Best Technical Achievement and People's Voice Awards
July 2000	Yahoo! Internet Life: 10 Internet Essentials

MONTH	AWARD
August 2000	Internet World: 25 Shapers of the Net PC World Magazine: Best of the Web 2000 CNET: Editor's Pick
September 2000	Forbes: Best of the Web PC World: "Best Bet" Search Engine
October 2000	WIRED: Readers' Raves - Most Intelligent Agent
November 2000	PC Magazine: Best Internet Innovation PC Magazine: Editors' Choice
December 2000	Yahoo! Internet Life: 100 Best Sites for 2001

18. Google has steadily continued to pursue its mission since the early years, building its search engine indexes steadily and introducing new features, products and services to assist persons in accessing and organizing information. Google has also introduced a variety of specialized functions including Google Image Search (which offers the most comprehensive image search on the web, indexing more than 880 million images), Google Groups (which enables users to search Usenet discussion groups dating back to 1981), Google News (which locates and delivers news items from the web, including custom email alerts to users), Google Catalogs (which searches a huge variety of catalogs), Google Answers (which allows users to obtain answers to their specific questions), and Google Scholar (which allows users to search the contents of scholarly literature).

19. One of Google's specialized search functions is FROOGLE, which searches e-commerce sites and shopping sites for terms specified by users who are searching for products and product-related information on the web. From its inception, the GOOGLE search engine has allowed searching of e-commerce and shopping websites.
20. Currently, the GOOGLE search engine indexes over 8 billion web pages. Google's search engine currently responds to more than 200 million search queries each day from users located throughout the world.
21. Google's brand name GOOGLE was listed by Brand Keys Customer Loyalty Leaders in 2003 as one of the ten Most Trusted Brands in America. A copy of the Brand Keys 2003 listing is attached hereto as Exhibit 3. In addition, GOOGLE was the No. 1 global brand in Interbrand's 2002 and 2003 Readers' Choice Awards.
22. In 2003, Google's revenues exceeded \$900 million. In early 2004, Google announced an initial public offering (IPO) of its stock. Google's stock offering was widely publicized and closely followed in the trade and financial press as well as in the general media. Google officially initiated its IPO process by filing a Form S-1 with the Securities and Exchange Commission ("SEC") on April 29, 2004 and its public offering became one of the hottest IPOs of 2004. Google raised \$1.6 billion in its initial public offering. Google's stock price has doubled from \$85.00 per share, its initial offering price in August 2004, to an average price of \$175.00 per share today. Google currently has a

market capitalization of \$36 billion, greater than the market capitalization of either General Motors or AT&T.

B. THE GOOGLE NAME AND MARK

23. Google's domain name *google.com* was registered on September 15, 1997. Google has used Google in its corporate name since 1998.

24. Google owns the following federal trademark registrations for the mark GOOGLE:

MARK	REG. NO.	FILING DATE	REG. DATE	GOODS AND SERVICES
GOOGLE	2,884,502	9/16/98	9/14/04	Computer hardware; computer software for creating indexes of information, indexes of web sites and indexes of other information resources, in Class 9
GOOGLE	2,806,075	9/16/99	1/20/04	Computer services, namely, providing software interfaces available over a network in order to create a personalized on-line information service; extraction and retrieval of information and data mining by means of global computer networks; creating indexes of information, indexes of web sites and indexes of other information sources in connection with global computer networks; providing information from searchable indexes and databases of information, including text, electronic documents, databases, graphics and audio visual information, by means of global computer information networks, in Class 42; and providing electronic mail and workgroup communications services over computer networks; providing multiple user access to proprietary collections of information by means of global computer information networks, in Class 38

25. These registrations are valid, subsisting, uncanceled and unrevoked. Copies of the certificates for these registrations are attached to this Complaint as Exhibit 4.
26. Google has established a valuable reputation and goodwill in its GOOGLE name and mark by reason of its long use, extensive promotion, advertising and sale of its Internet search engine and related goods and services under the GOOGLE name and mark.
27. As a result of Google's extensive marketing, advertising and sales efforts, the GOOGLE name and mark are exclusively associated with the Internet search engine and related good and services originating with Google.
28. Google's mark GOOGLE has been in continuous use since at least as early as September 1997. Google's GOOGLE name and mark are distinctive and are well-known. They have been famous among the general public since 1999.

C. GOOGLE'S FROOGLE PRODUCT SEARCH SITE

29. Google's FROOGLE shopping site and service were launched in December 2002.
30. Google's FROOGLE product search service applies the power of Google's innovative search technology to one specific task -- locating vendors of item that are relevant to the search terms and directing Internet users directly to web pages where users can make a purchase.

31. Google's mark FROOGLE, is an intuitive play on its house mark GOOGLE and is an intentional misspelling of the word "frugal."

32. On its FROOGLE home page at <http://froogle.google.com>, Google includes the following humorous definition of FROOGLE, emphasizing the obvious interplay between the descriptive term "frugal" and Google's famous mark GOOGLE:

froo·gle (fru'gal) *n.* Smart shopping through Google.

(See Exhibit 5 attached hereto).

33. On the Frequently Asked Questions page of the FROOGLE website located at <http://froogle.google.com/froogle/about.html>, Google includes the following information regarding the derivation and meaning of its FROOGLE mark:

11. Froogle? What kind of name is that anyway? . . .

Froogle is a play on the word "frugal," meaning thrifty, and the name "Google," which has come to stand for excellence in search technology. "Google" is itself a play on the word "googol," which is the term for the number 1 followed by 100 zeroes. So you might say "Froogle" is a play within a play.

(See Exhibit 6 attached hereto).

34. Google's FROOGLE mark is a natural derivation and expansion of use of its famous GOOGLE mark.

35. On November 22, 2002, Google filed Application Serial No. 78/187,946 for the mark FROOGLE for use in connection with: computer services, namely, providing temporary

use of non-downloadable computer interface software available over a network in order to create personalized on-line information services; extraction and retrieval of information and data mining by means of global computer networks; creating customized user-defined indexes of information, indexes of web sites and indexes of other information sources which include online web links to other web sites in connection with global computer networks; customized searching services in the nature of providing specific information as requested by customers from indexes of information, indexes of web sites and indexes of other information sources via the Internet; customized searching services, namely, providing specific information as requested by customers from searchable indexes and databases of information, including text, electronic documents, databases, graphics and audio visual information, by means of a global computer information network, in International Class 42.

36. The United States Patent and Trademark Office approved Google's Application Serial No. 78/197,946 and published it for opposition in its Official Gazette on February 17, 2004.

D. DEFENDANT'S USE OF "FROOGLES"

37. Upon information and belief, Defendant, Richard Wolfe, registered the domain name froogles.com in December 2000.

38. Upon information and belief, as of the date Defendant registered the domain name froogles.com, Defendant was well aware of the GOOGLE search engine and the famous mark GOOGLE.
39. Upon information and belief, as of the date Defendant registered the domain name froogles.com, Defendant was well aware of the widespread use of the GOOGLE search engine by the public for searches of products and product-related information on the web.
40. As of December 2000, Defendant had actual and/or constructive knowledge of Google's then-pending federal application to register its GOOGLE mark.
41. Upon information and belief, Defendant selected the mark FROOGLES with full knowledge of Google's prior rights in its GOOGLE name and mark.
42. As between the parties, Google is the senior user of marks that incorporate the formative --OOGLE for Internet search services.
43. Upon information and belief, from December 2000 to at least July 2002, Defendant made no trademark or service mark use of the mark FROOGLES in the ordinary course of trade.
44. Upon information and belief, Defendant has no evidence of any sales under the mark FROOGLES from December 2000 to at least July 2002.

45. Upon information and belief, no earlier than July 2002, Defendant launched an Internet web site at the domain name *froogles.com* which claims to offer an Internet shopping search service.
46. Upon information and belief, from December 2000 to date, Defendant has made no bona fide service mark use of the mark FROOGLES.
47. Defendant is using the mark FROOGLES, which is nearly identical to the famous mark GOOGLE in an attempt to market Internet search services which are identical and/or closely related to Google's search services.
48. Defendant has referred to a "Mr. Froogles" on its search site. Upon information and belief, "Mr. Froogles" is a pseudonym and user name of Defendant on the *froogles.com* web site. Defendant has also explained that "froogles.com internet shopping guide and mall is designed to give the frugal shopper, access to free stuff, clearance and closeout areas, special discount offers, rebates and coupons, and all around good deals at well known and lesser known online stores, saving you time and money."
49. At *froogles.com*, Defendant offers a "search" tab that takes users to a search page. On that search page, located at www.froogles.com/search.htm, Defendant offers a general web search function that competes with Google's web search services.

50. On September 8, 2003, Defendant filed U.S. Application Serial No. 78/297,093 for the mark FROOGLES for use in connection with: "providing marketing information and ordering services in the field of electronic commerce via global computer networks; dissemination of advertising for others via on-line electronic communications network; providing information on global computer networks in the field of electronic commerce in the nature of prices, discounts, sales, availability, terms and other information relating to various third-party merchants and the goods and services offered by such merchants; enabling consumers to make purchases of good and services from others on global computer networks; infomediary services, namely facilitating transactions between buyers and sellers through providing buyers with information about sellers, goods, and/or services; promoting the sale of goods and services of others and providing access links to sellers through an online marketplace; providing an online computer database in the field of locating products, describing products, rating products, pricing products and comparing prices of products of others," in International Class 35.
51. In U.S. Trademark Application Serial No. 78/297,093, Defendant claims a date of first use of the mark FROOGLES of 2001, four (4) years after Google commenced use of its GOOGLE name and mark.
52. Upon information and belief, Defendant made no bona fide use or use in commerce of FROOGLES as a service mark on or before December 31, 2001. Defendant's claimed dates of first use and first use in commerce in Application Serial No. 78/297,093 are

false. Defendant knew the claimed dates of first use and first use in commerce were false when made.

E. THE PARTIES' HISTORY OF LITIGATION

53. On March 24, 2004, Defendant instituted Opposition No. 91/159,991 before the Trademark Trial and Appeal Board of the U.S. Patent & Trademark Office, objecting to Google's Application Serial No. 78/187,946 for FROOGLE.
54. In Opposition No. 91/159,991, Defendant claims that Google's use of its mark FROOGLE is likely to cause confusion with Defendant's alleged use of the mark FROOGLES.
55. In 2004, Defendant issued numerous statements to the public claiming that he is the owner of the mark FROOGLES and that Google's use of its FROOGLE mark constitutes an infringement of his alleged rights.
56. Defendant has falsely portrayed Google in the minds of the public as an infringer, in order to cast doubt on Google's right to continued use of its FROOGLE mark.
57. On May 21, 2004, Google filed a Complaint against Defendant with the National Arbitration Forum ("NAF") seeking transfer of the domain name froogles.com to Google under the Uniform Domain Name Dispute Resolution Policy adopted by the Internet Corporation for Assigned Names and Numbers ("ICANN") on the grounds that

Defendant's use of the domain name froogles.com is likely to cause confusion with Google's mark and name GOOGLE.

58. In the proceeding before the NAF, Defendant argued that confusion is not likely between the marks GOOGLE and FROOGLES.
59. On July 18, 2004, the three-member panel appointed by the NAF voted 2 to 1 to deny the relief requested by Google, on the grounds that the mark FROOGLES is allegedly "sufficiently different" from GOOGLE such that the marks are not confusingly similar. In that decision, the dissent noted that Defendant did not make a bona fide offering of goods or services.

COUNT I

INFRINGEMENT OF GOOGLE'S TRADE NAME AND REGISTERED TRADEMARK

60. Google repeats and realleges the allegations contained in Complaint paragraphs 1 through 59 inclusive, as though fully set forth herein.
61. To the extent that Defendant engages in any use in commerce of the FROOGLES name, the parties are in direct competition in connection with the sale of Internet shopping and search engine services.

62. Defendant's mark FROOGLES is confusingly similar to Google's GOOGLE name and mark.
63. Defendant has never been granted any license, authorization, permission or consent to use Google's GOOGLE name and mark in connection with Internet shopping and search engine services, nor does he have reason to believe he was licensed, authorized or permitted to use the GOOGLE name and mark in connection with such activities.
64. Defendant's unauthorized use of the mark FROOGLES in connection with the sale of Internet shopping and search engine services poses a direct threat to the goodwill and reputation of Google and its famous GOOGLE mark.
65. Defendant's use of the FROOGLES mark constitutes a deliberate, knowing and willful infringement of Google's statutory and common law rights in its GOOGLE mark.
66. Defendant, through his prominent reference to the FROOGLES mark to identify his Internet shopping and search engine services, is using a mark which is nearly identical to Google's GOOGLE name and mark in an effort to imbue his business with the quality and reputation symbolized by Google's GOOGLE mark and thereby attract users and purchasers of Defendant's services.
67. Defendant, with knowledge of the valuable reputation and goodwill symbolized by Google's GOOGLE mark and its exclusive association with Google in connection with

Internet search engine services and related goods and services, including product search and e-commerce services, adopted and uses the FROOGLES mark to falsely identify his services and to mislead consumers and the trade into believing that Defendant is Google or is licensed by or somehow associated with Google.

68. Upon information and belief, Defendant's sale of Internet shopping and search engine services under the FROOGLES mark is with the deliberate intention of benefiting from the valuable reputation and goodwill established by Google in its GOOGLE mark.
69. Defendant's use of the mark FROOGLES in connection with Internet search engine, shopping services and in the domain name froogles.com is likely to cause confusion and mistake with Plaintiff's GOOGLE mark for the identical and/or closely related services.
70. Defendant's infringement of Google's GOOGLE mark is causing irreparable injury to Google.
71. Upon information and belief, as of the date of filing of this Complaint, Defendant has continued his use of the FROOGLES mark in connection with Internet shopping services, search engine services, and as part of the domain name froogles.com.
72. Defendant's promotion and sale of Internet shopping and search engine services under the FROOGLES mark or any colorable imitation thereof is likely to:
 - (a) cause confusion, mistake and/or deception;

(b) give the false and misleading impression that:

- i. the Internet shopping and search engine services offered or sold by Defendant and Google originate with or are under the control of a single source or are backed or endorsed by a single source;
- ii. Defendant is, in fact, Google;
- iii. Defendant is an employee of, subsidiary of, or in some way associated with, connected or related to Google;
- iv. Defendant has established a branch office or discount outlet of Google; or
- v. Defendant is the owner of Google and/or the GOOGLE mark; and

(c) lead to the passing off of Defendant's services as Google's.

73. Unless restrained, Defendant's conduct as described above will cause confusion and will impair, if not destroy, the value of Google's business and goodwill, all to the irreparable damage, loss and injury of Google.

74. Defendant's acts constitute trademark infringement in violation of 15 U.S.C. § 1114 et seq.

COUNT II

FALSE DESIGNATION OF ORIGIN IN VIOLATION OF 15 U.S.C. § 1125(a)

75. Google repeats and realleges the allegations contained in paragraphs 1 through 74 inclusive, as though fully set forth herein.

76. Defendant's use of FROOGLES constitutes a false designation of origin under 15 U.S.C. § 1125(a) in that it gives the false and misleading impression that:
- (a) The Internet shopping and search engine services provided by Defendant originate with or are offered or sold under the control of Google or are backed or endorsed by Google; or
 - (b) Defendant is, in fact, Google; or
 - (c) Defendant is an employee of, subsidiary of or is in some way associated with, connected with or related to Google; or
 - (d) Defendant's services can be passed off as those of Google.
77. Defendant's provision of Internet shopping and search engine services under the mark FROOGLES in the manner stated above constitutes the use of false designations of origin, false descriptions or representations, tending to falsely describe and/or represent Defendant's services as those of Google.
78. Upon information and belief, Defendant has, with knowledge of the falsity of the designations of origin, descriptions and/or representations used in connection with his services, caused them to be used, advertised, offered and sold in interstate commerce, all to the immediate and irreparable damage of Google and the public and in violation of 15 U.S.C. § 1125(a).

79. Google believes it is likely to be damaged by the use of such false designations of origin, descriptions and/or representations, all in violation of Section 43(a) of the Lanham Act [15 U.S.C. § 1125(a)].

COUNT III

**FEDERAL TRADEMARK DILUTION
UNDER 15 U.S.C. § 1125(c)**

80. Google repeats and realleges the allegations contained in paragraphs 1 through 79 inclusive, as though fully set forth herein.
81. Plaintiff's GOOGLE mark, as set forth herein, is inherently distinctive, has been used throughout the United States, is well-known and has developed secondary meaning among members of the public.
82. The public generally associates and identifies the GOOGLE mark as used in connection with the advertising, promotion and sale of Internet search engine services and related goods and services as originating with Google.
83. Defendant adopted the mark FROOGLES after Plaintiff's GOOGLE name and mark became famous.
84. Defendant's adoption and use of the mark FROOGLES in commerce dilutes the distinctive quality of Plaintiff's GOOGLE mark by diminishing the capacity of the mark

GOOGLE to identify and distinguish Plaintiff's services in violation of 15 U.S.C. § 1125(c).

85. Any dilution or blurring of the identity and exclusivity of Plaintiff's famous GOOGLE mark is detrimental to Google's hard-won reputation and its ability to market its services.
86. Upon information and belief, Defendant's actions have been and are willful, with an intent to trade on Google's reputation, to trade on Plaintiff's famous GOOGLE brand and to dilute the GOOGLE mark.
87. Google has no adequate remedy at law. The conduct of Defendant, described above, has caused and, if not enjoined, will continue to cause irreparable damage to the rights of Plaintiff in the GOOGLE mark and to the business, reputation and goodwill of Google.
88. Defendant's actions constitute trademark dilution in violation of the Lanham Act (15 U.S.C. § 1125(c)).

COUNT IV

STATE TRADEMARK DILUTION UNDER NEW YORK GENERAL BUSINESS LAW § 360-1

89. Google repeats and realleges the allegations contained in paragraphs 1 through 88, inclusive, as though fully set forth herein.

90. Google's GOOGLE mark is inherently distinctive and has acquired tremendous secondary meaning.
91. Through its extensive use and advertising, Google's GOOGLE mark is exclusively associated with Google.
92. Defendant's use of its mark FROOGLES is likely to dilute the distinctive quality of Plaintiff's mark GOOGLE by diminishing the capacity of the mark GOOGLE to identify and distinguish Plaintiff's services.
93. Defendant adopted the mark FROOGLES with full knowledge of Google's prior use, reflecting Defendant's intent to usurp and arrogate to himself the goodwill and reputation of the mark GOOGLE, and to trade upon the consumer recognition of the mark GOOGLE.
94. Defendant's use of the mark FROOGLES, which is substantially similar to the mark GOOGLE, is likely to blur the exclusive association of the mark GOOGLE with Google in the minds of the public.
95. Unless enjoined, Defendant's continued use of the mark FROOGLES is likely to whittle down and/or diminish the value of Google's GOOGLE mark.
96. Defendant's actions constitute dilution under New York General Business Law § 360-1.

COUNT V

**UNFAIR COMPETITION UNDER THE
COMMON LAW OF THE STATE OF NEW YORK**

97. Google repeats and realleges the allegations contained in paragraphs 1 through 96 inclusive, as though fully set forth herein.
98. Defendant's adoption of and use in commerce of the mark FROOGLES in connection with the sale of Internet shopping and search engine services, is likely to:
- (a) cause confusion, mistake and/or deception; or
 - (b) give the false and misleading impression that:
 - i. the services offered or sold by Defendant and Google originate with or are under the control of a single source or are backed or endorsed by a single source; or
 - ii. Defendant is an employee of, subsidiary, licensee or in some way associated with, connected or related to Google; or
 - (c) result in the passing off of Defendant's services as those of Google; and/or
 - (d) injure Google's business reputation.
99. Upon information and belief, Defendant adopted the mark FROOGLES with the intent to trade upon Google's reputation and goodwill.
100. Defendant adopted the mark FROOGLES in bad faith, with full knowledge of Google's valuable rights in its GOOGLE name and mark.

101. Google has no adequate remedy at law. The conduct of Defendant, described above, has caused and, if not enjoined, will continue to cause irreparable damage to the rights of Plaintiff in its GOOGLE name and mark and to the business, reputation and goodwill of Google.
102. Defendant's acts constitute unfair competition in violation of the law of unfair competition of the State of New York.

COUNT VI

REQUEST FOR DECLARATORY JUDGMENT OF NON-INFRINGEMENT PURSUANT TO 28 U.S.C. §§ 2201 AND 2202

103. Google repeats and realleges the allegations contained in paragraphs 1 through 102, inclusive, as though fully set forth herein.
104. Defendant has caused or issued numerous statements to the public claiming that it is the senior user of the mark FROOGLES and that Google's use of its mark FROOGLE constitutes an infringement of Defendant's alleged rights. For example, the following statement has appeared in numerous publications: "'Google's right to continue to use the Froogle mark is seriously in question,' said [Plaintiff] Wolfe's attorney, Stephen Humphrey. 'To the extent they continue to use the mark, they are infringing on Richard Wolfe's trademark rights,' Humphrey alleges."
105. As set forth above, Defendant adopted his FROOGLES mark with full knowledge of Google's senior rights in its GOOGLE name and mark.

106. Google, and not Defendant, is the senior user of marks that incorporate the formative -- OOGLE for Internet shopping and search engine services.
107. Defendant has no enforceable rights in the mark FROOGLES as against Google.
108. As a matter of law, Google, the senior user of --OOGLE formative marks for Internet search services, has not infringed and cannot infringe any claimed right of Defendant.
109. Defendant is not entitled to registration of FROOGLES.
110. There exists an actual controversy among the parties as to the validity, enforceability and infringement of the mark FROOGLES, with respect to which Google requests a declaratory judgment in its favor pursuant to 28 U.S.C. § 2201.
111. Google is also entitled to an order directing the U.S. Patent and Trademark Office to dismiss the opposition filed by Defendant against Google's Application Serial No. 78/187,946 to register FROOGLE and to refuse registration of FROOGLES to Defendant pursuant to his Application Serial No. 78/297,093.

JURY DEMAND

Google hereby demands a jury trial on all issues so triable.

PRAYER FOR RELIEF

WHEREFORE, Google prays:

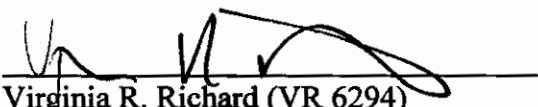
- A. That Defendant Richard Wolfe d/b/a Froogles.com, his agents, sales representatives, servants, employees, associates, subsidiaries, franchises, attorneys, heirs, successors and assigns, and all persons acting by, through, under or in active concert or participation with any of them be permanently enjoined from:
1. Using the marks FROOGLES, FROOGLE and the domain name *froogles.com* or any other name or mark consisting of or containing the marks FROOGLE, GOOGLE, or --OOGLE suffix or any mark confusingly similar thereto for Internet search engine or shopping services.
 2. Engaging in any course of conduct likely to cause confusion, deception or mistake, or to injure Google's business reputation or to dilute the distinctive quality of Plaintiff's GOOGLE mark.
 3. Engaging in any course of conduct likely to enable Defendant to benefit from the valuable goodwill and reputation established in Plaintiff's GOOGLE mark.
 4. Engaging in any course of conduct calculated or likely to mislead the public into believing that Defendant's services are the same as or equivalent to Google's services.

5. Engaging in any course of conduct, whether explicit or implicit, which is calculated or likely to mislead the public into believing that Defendant is the same as, related to, connected with, affiliated with or somehow associated with Google.
-
- B. That all web pages, printed material, including but not limited to labels, packages, wrappers, advertisements, letterhead, signage, and all other matter, and all means used for production and manufacture thereof, bearing the mark FROOGLES, the domain name froogles.com or any other name or mark consisting of containing the marks FROOGLES, FROOGLE or any mark confusingly similar thereto, or any colorable imitations thereof, in the custody of or under the control of Defendant, be ordered delivered to Google for destruction.
 - C. That the website maintained at the domain name froogles.com be ordered to be shut down and that Defendant be ordered to transfer the domain name froogles.com to Google.
 - D. That Defendant be ordered to notify any and all domain name registers, Internet service providers, web site managers, publishers and search engine operators to delete references and/or links to Defendant through use of the mark FROOGLES, the domain name froogles.com, and/or any other names or marks consisting of or containing the formative --OOGLE, or any name or mark confusingly similar to GOOGLE and FROOGLE.

- E. That Defendant be ordered to remove all references to the name or mark FROOGLES and/or any other names or marks consisting of or containing the mark FROOGLES, or any name or mark confusingly similar thereto, from any and all web sites published by Defendant or any affiliate of Defendant, including hyperlinks and metatags which contain reference to the name and mark FROOGLES or any variation thereof.
- F. That the Court issue an order declaring that Google is the senior user of marks that include the formative --OOGLE for Internet search services, that Defendant has no enforceable rights against Google and that Google has infringed no claimed right of Defendant.
- G. That the Court issue an order directing the U.S. Patent and Trademark Office to dismiss the opposition filed by Defendant against Google's Application Serial No. 78/187,946 to register FROOGLE and to refuse registration of FROOGLES to Defendant pursuant to his Application Serial No. 78/297,093.
- H. That Defendant make a full report to this court of his compliance with the foregoing within 30 days of the entry of judgment.
- I. That Google have such other and further relief as this Court may deem just and proper.

Dated: April 7, 2005

By:


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EXHIBIT 1

Interview with Google's Sergey Brin LG #59

LINUX GAZETTE

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"Linux Gazette...making Linux just a little more fun!"

Interview with Google's Sergey Brin

By Fernando Ribeiro Corrêa
Originally published at OLinux

Google: An important tool to organize information around the world

Sergey Brin, a native of Moscow, graduated with honors with a bachelor of science degree in mathematics and computer science from the University of Maryland at College Park. He is currently a Ph.D. candidate in computer science at Stanford University, where he received his master's degree. Brin is a recipient of a National Science Foundation Graduate Fellowship. Brin's research interests include search engines, information extraction from unstructured sources, and data mining of large text collections and scientific data. He has published more than a dozen publications in leading academic journals, including "Extracting Patterns and Relations from the World Wide Web"; "Dynamic Data Mining: A New Architecture for Data with High Dimensionality," which he published with Larry Page; "Scalable Techniques for Mining Casual Structures"; "Dynamic Itemset Counting and Implication Rules for Market Basket Data"; and "Beyond Market Baskets: Generalizing Association Rules to Correlations."

OLinux: What is Google company's mission?

Interview with Google's Sergey Brin LG #59

Sergey Brin: Google's mission is to organize the world's information, making it universally accessible and useful.

OLinux: When did you start this company? What was your initial motivation and how do you see it nowadays?

Sergey Brin: We started working on Google in 1995, as a research project at Stanford University. In 1998, we formed the company, Google Inc., and launched the search engine in beta to the outside world. This happened in September 1998. Our goal was to create a very simple and easy-to-use website that offers the best search engine in the world. This is still our goal, and we plan to continue to focus our business on search technology for some time to come.

OLinux: What kind of customers look for Google services and what are your company main clients? How fast Google wants to expand its solutions to other countries around the world?

Sergey Brin: We have over 100 customers in over 20 countries. Some of our banner customers include Yahoo!, AOL/Netscape, Cisco, WashingtonPost.com, and VirginNet (in the UK). Google customers license our technology because they are looking for the fastest, most relevant search on the Internet. Google currently supports 25 language searches, and will continue to aggressively add to this list. We ultimately hope to support all major languages in the world.

OLinux: How fast revenues are growing? Are there any plans for an IPO?

Sergey Brin: We're very happy with our business plan. Revenues are growing every quarter and we've made very few changes to our business strategy since we started the company. An IPO is something we're considering, but is not in our near-term plans. We've always managed the finances of our company very carefully, and we are fortunate to still have a very strong cash position from our initial venture financing, which was in June 1999.

OLinux: How did business over Internet has change the use of Google widening client's base and for searching tools?

Sergey Brin: We have millions of users a day who use Google to search for products and product information related to their purchasing decisions. For example, we index almost the entire Amazon.com website. As more and more information appears on the Internet, Google plans to index it and offer this content to our users. Google currently is the world's largest search engine, with over 1 billion web pages in our index.

OLinux: What are your responsibilities at Google? Rapidly, describe your daily tasks at Google?

Sergey Brin: Both my partner, Larry Page, and myself are very involved in almost all aspects of our business. I spend quite a bit of time each day on hiring, internal management, and marketing.

Interview with Google's Sergey Brin LG #59

OLinux: How does Google collaborate with its partners?

Sergey Brin: Each of our partner relationships is unique, so it's hard to answer this question. We support our partners in a variety of ways, from simply providing the world's best search technology, to co-marketing, to providing technological assistance, etc.

OLinux: What are the Google marketing strategies and alliances in order to keep itself on the Internet market?

Sergey Brin: Google actually relies on our users to help with our marketing. We have a very high percentage of our users who often tell others about our search engine. This has helped Google immensely, and has helped our website traffic grow over 20% per month since we started our company in 1998.

OLinux: How is Google organized? Try to give us an idea of how Google works? How is the coordination and management (servers, directories, contribution, staff payment)? How many people are involved? What are the main problems? Does Google have a central office somewhere or a HQ?

Sergey Brin: Google has two offices. Our headquarters are in the heart of Silicon Valley -- in Mountain View, California, which is about 10 minutes from Stanford University, where Google was born. We also have a small sales office in New York City, with about 10 employees who sell advertising for us. In total, we have just over 150 employees. Most of these employees are involved with our technology and engineering department. We have over 30 PhD's in this group!

Google's servers (we have over 6,000 servers that run RedHat 6.2) are hosted at three data centers across the U.S. -- one in the Washington DC area, and two in Silicon Valley.

OLinux: Please, evaluate rapidly Google evolution in terms of pages served using its tools? Can you describe something that really helped the project to succeeded? Have any idea of number of sites using Google search engine? Number of pages served by google engine every day?

Sergey Brin: Google currently servers over 20 million searches per day on our own website (www.google.com), and over 50 million searches per day on our own site and our partner websites (Yahoo, Netscape, Cisco, etc.). Have so many smart and talented employees has really helped our company succeed. There are over 25,000 websites on the Internet that use the Google search engine.

OLinux: Why should a site choose Google search engine instead of others? What are the better features Google bring to users?

Sergey Brin: Google offers users better quality search results, a simple, easy-to-use interface, high performance, and an exclusive focus on just being a search engine. We also offer cool features like caches

Interview with Google's Sergey Brin LG #59

pages, stock quotes, news headlines, links to online maps.

OLinux: Let's talk about Research and Development (R&D) and Software Engineering (SE): How many people work in SE activities developing google main tools? What is its policy toward investment in R&D?

Sergey Brin: We have about 80 engineers and R&D team members, and we're big fans of investing heavily in R&D.

OLinux: How is the research & development coordinated? What are the analysis and programming tools used? Are there any special quality control, auditing on code produced? What are the main projects under way?

Sergey Brin: They're very closely intertwined; developers do research and vice versa, and everyone talks a lot. Communication is very good between both of these groups.

For programming we use gnu tools: gcc, gdb, gnats. We use p4 for version control. For network installs, we use a variety of our own software, in addition to rsync. Machines are built on-site here at Google, configured, then shipped over to one of our three data centers.

We have a detailed regimen for code reviews and testing (QA).

The main projects we're working on, outside of improving the overall quality of our search engine are: Google wireless search technology, a variety of voice recognition projects, and Google international search technology bringing Google to more users worldwide.

OLinux: Currently, Google search engine runs in more than 5000 Red hat Linux servers. I read that Google system install and configure 80 servers at a time. What kind of tools coordinate this mass installation? What are the administrative tools used to monitor, check and replace servers failures? How is Linux used at the Google Projects? Why was Linux choose to improve Google search engine?

Sergey Brin: Actually, we currently run over 6,000 RedHat servers.

Linux is used everywhere...on the 6,000+ servers themselves, as well as desktop machines for all of our technical employees. We chose Linux because it offers us the price for performance ratio. It's so nice to be able to customize any part of the operating system that we like, at anytime. We have a large degree of in-house Linux expertise, too.

Most of our administrative tools were developed in-house, as well.

OLinux: What is Google security policy and how is it implemented?

Interview with Google's Sergey Brin LG #59

Sergey Brin: Most of our machines are behind a router and not accessible to the outside world. The outside-accessible machines (webservers) are carefully audited for security holes.

We also use ssh an awful lot. :-)

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Published in Issue 59 of *Linux Gazette*, November 2000

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EXHIBIT 2

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Press Center

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[Google Labs](#)
[Financial Info](#)
[Investor Relations](#)
[Corporate Citizenship](#)
[Governance](#)
[Software Principles](#)
[Privacy Policy](#)

1999 Press Mentions

- **Business Week Online**, December 28, 1999
[Google Can End Your Search for a Great Search Site.](#)

One site was consistent though. Google came in first in each of my five searches. Not only did it come in first but it blew away the competition.

- **The Guardian**, December 2, 1999
Google is mentioned in [It's so smart to be simple.](#)
- **E-Commerce Times**, November 29, 1999
[UK Shopping Guide Turns To Google](#)
- **PC Magazine**, November 17, 1999
Google is again on [PC Magazine's Top 100 Web Sites](#) list.
- **PCMike**, November 16, 1999
[New search sites cut the online clutter](#)
- **ZDNet**, November 15, 1999
Google wins PC Magazine's [1999 Technical Excellence Award for Web Applications.](#)
- **USA TODAY**, October 26, 1999
Sam Meddis writes about [Today's 'hippest' search engine.](#)

A fast, user-friendly search engine that doesn't assault us with thousands of irrelevant citations may be the only thing that saves us from a lifetime of infopsychosis.

- **NetworkWorld Fusion**, October 21, 1999

More Coverage

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Google Press Center: Media Coverage

Danny Sullivan mentions Google in an article titled, Search engines to fit any style.

- **TechWeek**, October 18, 1999
An interview with Google's President in Google Focused on Being The Web's Best Search Engine.
- **The San Francisco Business Times**, October 11, 1999
At last, a search engine that (gasp!) just searches
- **The Register**, October 7, 1999
Comments on Google's ranking algorithm in an article titled, Microsoft's Satanic Majesty requests.
- **The New York Times**, October 6, 1999
Google Keeps Search Simple [registration required]
- **The Industry Standard**, October 4, 1999
Tools for Thinking
- **Forbes**, October 4, 1999
How Google is that?

The reason why all those Valley hotshots are going gaga over Google is because the company has a search technology that is far better than anything else out there.

- **UpsideToday**, October 4, 1999
The DailyTish column titled Google's Serious Searching.

... it's a minimalistic triumph -- three years ago the original competitive field of search engines staged a mass exodus, leaving behind the pursuit of better search results and entering a revenue desert in search of a promised land of sticky services. Now it's time for the experts.

- **The New York Times**, September 30, 1999
Searches Where Less, Not More, Is Better [registration required]

Google is very fast and uses clever intuitive

technologies to rank search results by relevancy.

- **Business Week**, September 29, 1999
Can Google's Prodigies Make a Search Tool Pay?

... two 26-year-old PhD candidates from Stanford University formally launched what many experts consider to be the most powerful search tool on the Net, called Google.

- **USA TODAY**, September 27, 1999
Once again Google is listed as a hot site.

Searching on the Web just got easier -- with the addition of a new feature at the search service Google that hunts down related info. Whenever you find a citation that looks interesting, just click on the GoogleScout link and you'll get a list of associated stuff.

- **PC World**, September 24, 1999
A Search Engine Worth Gambling On
- **Salon**, September 23, 1999
From beta to bonafide
- **ORF ON Futurezone**, September 22, 1999
An article about Google coming out of beta.
- **Internet News**, September 21, 1999
Google Finishes GoogleScout, Launches Site
- **LLRX.com (Law Library Resource Exchange)**, September 15, 1999
Google's Uncle Sam is noted as a valuable resource.
- **Tom's Hardware**, September 10, 1999
An article on Google and other search engines.
- **Useit.com**, September 9, 1999
An article that includes an alertbox about reputation managers, including Google.

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- **MSNBC**, September 8, 1999
Google is included in a story about measuring the Web's diameter.
- **Forbes**, August 17, 1999
An article titled Feeding frenzy mentions Google.
- **ft.com**, August 10, 1999
Search Engines: The power to weed out the irrelevant.
- **Salon Magazine**, July 23, 1999
Google mentioned in an article about the Internet economy.
- **SearchEngineWatch**, July 6, 1999
One report on the future of Google and another on Netscape's use of Google's engine.
- **TechWeb**, June 25, 1999
An article about Netscape's partnership with Google.

Google, Netscape's search partner, has some very impressive technology, said analyst Barry Parr of International Data Corp.
- **TechWeb**, June 24, 1999
This article about Netscape's search engine describes the Open Directory and Google.
- **C|NET News.com**, June 24, 1999
Netscape unveils new search engine, which happens to be Google!
- **MSNBC**, June 13, 1999
Does Google have a business plan?
- **The Motley Fool**, June 4, 1999
A Google reference in an article about Yahoo.

My first choice these days when trying to find something on the Internet is a tiny little site called Google. Google prioritizes search

results by how many other pages it has found that link to the page in question, and thus can roughly judge how important or authoritative the rest of the people making up the Internet consider that page to be. The results have been consistently good enough to make me switch.

- **USA TODAY, May 26, 1999**
Google's Uncle Sam search is listed as a "hot site" and also as a useful government-related site.
- **Scientific American, May 1999**
The June issue mentions Google in an article about web searching.
- **SPIRIT, May 1999**
Mention in Southwest Airline's in-flight magazine.
- **PC Online, May 1999**
Review of general searches in the June issue.
- **Diario del Navegante, April 21, 1999**
La Revolución Google! Written in Spanish by Ramon Salaverria.
- **The Newtown Bee, April 9, 1999**
Internet Info for Real People by Bob Brand.
- **Playboy, April, 1999**
Critic Mark Frauenfelder writes:

...when I want to quickly get to the most authoritative sites on a topic, I use a search engine called Google.

- **Independent Network, March 29, 1999**
- **The Hersh Web Site Observer, March 22, 1999**

This search engine uses a complicated mathematical analysis, calculated on more than a billion hyperlinks on the web, to return

Google Press Center: Media Coverage

high-quality search results so you don't have to sift through junk.

- **The Observer, March 14, 1999**

John Naughton wrote in this British Sunday newspaper:

Sergey Brin and Larry Page, two ... Stanford graduates with a great idea and a wacky name. Google (www.google.com) indexes Web pages using an ingenious algorithm which ranks a site on the basis of who links to it.

- **The Internet Newsroom, February 1999**

Getting BeGoogled

- **Washington Post, February 22, 1999**

In "Search and Now You Find the Right Stuff", Margot Williams wrote:

Google is a new search engine that takes advantage of the cyberspace community's collective expertise. Just as you trust the links on a really good site to get you to other good pages, Google crawls the Web scooping up hyperlinks and uses them to figure out how important a page is by who is pointing to it.

- **Newsweek, February 22, 1999**

Steven Levy touts Google

...the Net's hottest new search engine, which) draws on feedback from the Web itself to deliver more relevant answers to customer queries.

- **Tech Sightings, Andover News Network, February 18, 1999**

Review and discussion about Google by Robin Miller.

- **The IPO Report, February 17, 1999**

Google.com: Next Brainchild To Go Big?

- **TipWorld, February 9, 1999**

Google selected as TipWorld's Cool Web Site of the Day.

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- **Seattle Times**, February 7, 1999
The Search for the Perfect Search Engine
- **TechWeb**, January 27, 1999
Google.com: Next Brainchild To Go Big? by Tom Taulli
- **Stanford Daily Review**, January 22, 1999
Grads Launch Search Engine.
- **Jakob Nielsen's AlertBox**, January 17, 1999
Google hailed as the best way to navigate the Web.
- **Release 1.0**, January 15, 1999
Excerpt from "Gaga for Google", by Kevin Werbach:

Despite the remarkable success of portals built around search engines, there has been little published research on improving Internet search results. Page and Brin stepped into this breach with Google.

If you have seen coverage that we don't have listed here, please contact us. Thanks!



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EXHIBIT 3



Brandkeys the 2003 Brand Keys Customer Loyalty Leaders



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Awards

- Customer Loyalty Award
- Loyalty Leaders List
- Sports Loyalty Results

Syndicated
Reports

- Customer Loyalty Index
- Sports Loyalty Index

2003 Brand Keys Customer Loyalty Leaders

The Loyalty Leaders list gives the loyalty rankings for the 182 brands we assessed in 31 industry categories in the 2003 Brand Keys Customer Loyalty Index.

Brand Rankings

2003		2002
1	Avis	1
2	Google.com	8
3	Sprint Long Distance	2
4	Verizon Long Distance	89
5	Miller Genuine Draft	13
6	Starbucks Coffee & Doughnuts	NR
7	Samsung Mobile Phone	3
8	Canon Office Copier	12
9	KeySpan Energy	10
10	Motorola Mobile Phone	9
11	Nokia Mobile Phone	7
12	Amazon.com	17
13	Marriott Hotels	20
14	Yahoo.com	16
15	PSE&G	11
16	Budweiser	4
17	Ritz-Carlton Hotels	6
18	Texaco Gasoline	48
19	Hyatt Hotels	14
20	L. L. Bean Catalogue	NR
21	SBC Long Distance	52
22	New Balance Athletic Shoe	18
23	Adidas Athletic Shoe	103
24	AT&T Long Distance	5
25	Mobil Gasoline	15
26	Schwab.com	26
27	Discover Card	31
28	Bell South Long Distance	41
29	Capital One Credit Card	47
30	Sears Catalogue	NR
31	Diet Pepsi	71

9 West 29th Street
5th floor
New York, NY 10001
212.532.6028
keys@brandkeys.com

Brandkeys the 2003 Brand Keys Customer Loyalty Leaders

32	Bud Light	19
33	Wal-Mart	21
34	HotBot.com	27
35	Excite.com	32
36	Hilton Hotels	40
37	Verizon Wireless	33
38	MSN.com	34
39	Lycos.com	23
40	Sears Store	24
41	Qwest Long Distance	29
42	ETrade.com	98
43	Exxon Gasoline	36
44	Chevron Gasoline	74
45	Airborne Express	37
46	Sheraton Hotels	43
47	Diet Coke	44
48	Radisson	45
49	TDWaterhouse.com	59
50	FedEx	95
51	AltaVista.com	30
52	Siemens Mobile Phone	NR
53	Gateway Computers	NR
54	J. Crew Catalogue	NR
55	Lands' End Catalogue	NR
56	Today (NBC)	38
57	Con Edison	25
58	MLB	49
59	Netscape.com	50
60	Sprint PCS Wireless	51
61	Pepsi	54
62	Target	53
63	American Morning (CNN)	72
64	Southwest Airlines	73
65	Fidelity.com	80
66	Apple Computers	NR
67	Jet Blue Airways	NR
68	Wyndham Hotels	61
69	Dell Computers	NR
70	NFL	55
71	Budget Rent a Car	56
72	Delta Air Lines	58
73	Westin Hotels	60
74	T. Rowe Price Mutual Fund	64
75	JC Penney	63
76	T-Mobile Wireless	78
77	Datek.com	39
78	Vanguard Mutual Fund	94
79	BP Gasoline	113
80	Compaq Computers	NR
81	Coors Light	28
82	Xerox Office Copier	57
83	MCI Long Distance	62

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86	Embassy Suites	76
87	Miller Lite	79
88	AOL.com	81
89	Wachovia Bank	105
90	Enterprise Rent-a-Car	83
91	Subway	NR
92	HP Computers	NR
93	Ericsson Mobile Phone	22
94	Nike	70
95	MerrillLynch.com	67
96	Fidelity Mutual Fund	68
97	Amstel Light	42
98	NBA	75
99	AT&T Wireless	82
100	Visa Card	84
101	Amoco Gasoline	100
102	National Discount Brokers	90
103	Reebok Athletic Shoe	95
104	Ameritrade.com	107
105	Pizza Hut	122
106	JP Morgan Chase Bank	85
107	Cingular Wireless	69
108	Diet 7-Up	153
109	Dunkin' Donuts	NR
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111	Sony Computers	NR
112	Citibank	35
113	AskJeeves.com	86
114	Continental	87
115	Wendy's	92
116	KFC	93
117	Krispy Kreme Doughnuts	NR
118	Papa John's	91
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163	Prudential Insurance	132
164	Ricoh Office Copier	149
165	Hardee's	NR
166	US Airways	118
167	Dollar Rent a Car	136
168	Mountain Dew	NR
169	Sharp Office Copier	138
170	7-Up	137
171	Jack in the Box Restaurant	NR
172	Fila Athletic Shoe	145
173	Taco Bell	152
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176	Dr Pepper	151
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EXHIBIT 4



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Trademarks > Trademark Electronic Search System (TESS)

Trademark Electronic Search System(Tess)

TESS was last updated on Tue Apr 5 04:41:54 EDT 2005

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Record 1 out of 1

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Typed Drawing

Word Mark	GOOGLE
Goods and Services	IC 009. US 021 023 026 036 038. G & S: computer hardware; computer software for creating indexes of information, indexes of web sites and indexes of other information resources. FIRST USE: 20000126. FIRST USE IN COMMERCE: 20000126
Mark Drawing Code	(1) TYPED DRAWING
Serial Number	75554461
Filing Date	September 16, 1998
Current Filing Basis	1A
Original Filing Basis	1B
Published for Opposition	May 8, 2001
Registration Number	2884502
Registration Date	September 14, 2004
Owner	(REGISTRANT) GOOGLE INC. CORPORATION DELAWARE Google Inc. 1600 Amphitheatre Parkway Building 41 Mountain View CALIFORNIA 94043
Assignment Recorded	ASSIGNMENT RECORDED
Attorney of Record	Julia Anne Matheson
Type of Mark	TRADEMARK
Register	PRINCIPAL
Live/Dead Indicator	LIVE

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Trademark Electronic Search System (TESS)

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Latest Status Info

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Thank you for your request. Here are the latest results from the TARR web server.

This page was generated by the TARR system on 2005-04-05 11:18:04 ET

Serial Number: 75554461 Assignment Information

Registration Number: 2884502 Assignment Information

Mark (words only): GOOGLE

Standard Character claim: No

Current Status: Registered.

Date of Status: 2004-09-14

Filing Date: 1998-09-16

Transformed into a National Application: No

Registration Date: 2004-09-14

Register: Principal

Law Office Assigned: LAW OFFICE 102

If you are the applicant or applicant's attorney and have questions about this file, please contact the Trademark Assistance Center at TrademarkAssistanceCenter@uspto.gov

Current Location: 900 -File Repository (Franconia)

Date In Location: 2004-09-21

LAST APPLICANT(S)/OWNER(S) OF RECORD

1. GOOGLE INC.

Address:

GOOGLE INC.

Google Inc. 1600 Amphitheatre Parkway Building 41

Mountain View, CA 94043

United States

Legal Entity Type: Corporation

State or Country of Incorporation: Delaware

GOODS AND/OR SERVICES

International Class: 009

computer hardware; computer software for creating indexes of information, indexes of web sites and indexes of other information resources

First Use Date: 2000-01-26

First Use in Commerce Date: 2000-01-26

Latest Status Info

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Basis: 1(a)

ADDITIONAL INFORMATION

(NOT AVAILABLE)

MADRID PROTOCOL INFORMATION

(NOT AVAILABLE)

PROSECUTION HISTORY

2005-02-10 - TEAS Change Of Owner Address Received
2004-09-22 - TEAS Change of Correspondence Received
2004-09-14 - Registered - Principal Register
2004-07-06 - Allowed for Registration - Principal Register (SOU accepted)
2004-06-28 - Case file assigned to examining attorney
2004-06-21 - Case file assigned to examining attorney
2004-06-17 - Statement of use processing complete
2004-06-08 - Amendment to Use filed
2004-06-15 - Case File in TICRS
2004-06-08 - TEAS Statement of Use Received
2004-04-26 - Case file assigned to examining attorney
2004-01-20 - Notice of allowance - mailed
2003-11-18 - Opposition terminated for Proceeding
2003-11-18 - Opposition terminated for Proceeding
2003-11-18 - Opposition dismissed for Proceeding
2001-08-16 - Opposition instituted for Proceeding
2001-06-04 - Extension Of Time To Oppose Received
2001-05-08 - Published for opposition
2001-04-25 - Notice of publication

Latest Status Info

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2000-11-09 - Approved for Pub - Principal Register (Initial exam)

1999-11-23 - Communication received from applicant

1999-11-06 - Amendment to use processing complete

1999-03-19 - Amendment to Use filed

1999-03-19 - Communication received from applicant

1999-06-25 - Divisional processing completed

1999-03-19 - Divisional request received

1999-05-20 - Non-final action mailed

1999-04-27 - Case file assigned to examining attorney

CORRESPONDENCE INFORMATION

Correspondent

Julia Anne Matheson (Attorney of record)

Rose Hagan

Google Inc.

1600 Amphitheatre Parkway

Building 41

Mountain View CA 94043

Phone Number: 650-623-4000

Fax Number: 650-918-8571

Trademark Electronic Search System (TESS)

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Trademarks > Trademark Electronic Search System (TESS)

Trademark Electronic Search System(Tess)

TESS was last updated on Tue Apr 5 04:41:54 EDT 2005

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Record 1 out of 1

[Check Status](#)*(TARR contains current status, correspondence address and attorney of record for this mark. Use the "Back" button of the Internet Browser to return to TESS)*

Typed Drawing

Word Mark GOOGLE**Goods and Services** IC 042. US 100 101. G & S: computer services, namely, providing software interfaces available over a network in order to create a personalized on-line information service; extraction and retrieval of information and data mining by means of global computer networks; creating indexes of information, indexes of web sites and indexes of other information sources in connection with global computer networks; providing information from searchable indexes and databases of information, including text, electronic documents, databases, graphics and audio visual information, by means of global computer information networks. FIRST USE: 19970900. FIRST USE IN COMMERCE: 19970300

IC 038. US 100 101 104. G & S: Providing electronic mail and workgroup communications services over computer networks; providing multiple user access to proprietary collections of information by means of global computer information networks. FIRST USE: 19970900. FIRST USE IN COMMERCE: 19970900

Mark Drawing Code (1) TYPED DRAWING**Serial Number** 75978469**Filing Date** September 16, 1999**Current Filing Basis** 1A**Original Filing Basis** 1B**Published for Opposition** December 4, 2001**Registration Number** 2806075**Registration Date** January 20, 2004**Owner** (REGISTRANT) Google Inc. CORPORATION CALIFORNIA 2400 Bayshore Parkway Mountain View CALIFORNIA 94043

(LAST LISTED OWNER) GOOGLE INC. CORPORATION DELAWARE Google 1600 Amphitheatre Parkway Building 41 Mountain View CALIFORNIA 94043

Assignment Recorded ASSIGNMENT RECORDED

Trademark Electronic Search System (TESS)

Page 2 of 2

**Attorney of
Record** Julie Anne Matheson
Type of Mark SERVICE MARK
Register PRINCIPAL
**Live/Dead
Indicator** LIVE

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Latest Status Info

Page 1 of 3

Thank you for your request. Here are the latest results from the TARR web server.

This page was generated by the TARR system on 2005-04-05 11:18:42 ET

Serial Number: 75978469 Assignment Information

Registration Number: 2806075 Assignment Information

Mark (words only): GOOGLE

Standard Character claim: No

Current Status: The Trademark Trial and Appeal Board has terminated a cancellation proceeding.

Date of Status: 2005-03-08

Filing Date: 1999-09-16

Transformed into a National Application: No

Registration Date: 2004-01-20

Register: Principal

Law Office Assigned: LAW OFFICE 102

If you are the applicant or applicant's attorney and have questions about this file, please contact the Trademark Assistance Center at TrademarkAssistanceCenter@uspto.gov

Current Location: M6D -TMO Law Office 115 - Docket Clerk

Date In Location: 2005-04-01

LAST APPLICANT(S)/OWNER(S) OF RECORD

1. GOOGLE INC.

Address:

GOOGLE INC.
Google 1600 Amphitheatre Parkway Building 41
Mountain View, CA 94043
United States

Legal Entity Type: Corporation

State or Country of Incorporation: Delaware

GOODS AND/OR SERVICES

International Class: 038

Providing electronic mail and workgroup communications services over computer networks; providing multiple user access to proprietary collections of information by means of global computer information networks

First Use Date: 1997-09-00

First Use in Commerce Date: 1997-09-00

Latest Status Info

Page 2 of 3

Basis: 1(a)

International Class: 042

computer services, namely, providing software interfaces available over a network in order to create a personalized on-line information service; extraction and retrieval of information and data mining by means of global computer networks; creating indexes of information, indexes of web sites and indexes of other information sources in connection with global computer networks; providing information from searchable indexes and databases of information, including text, electronic documents, databases, graphics and audio visual information, by means of global computer information networks

First Use Date: 1997-09-00

First Use in Commerce Date: 1997-03-00

Basis: 1(a)

ADDITIONAL INFORMATION

(NOT AVAILABLE)

MADRID PROTOCOL INFORMATION

(NOT AVAILABLE)

PROSECUTION HISTORY

2005-03-08 - Cancellation terminated for Proceeding
2005-03-08 - Cancellation dismissed for Proceeding
2005-02-10 - TEAS Change Of Owner Address Received
2004-07-13 - Cancellation Instituted No. 999999
2004-01-20 - Registered - Principal Register
2003-11-18 - Opposition terminated for Proceeding
2003-11-18 - Opposition terminated for Proceeding
2003-11-18 - Opposition dismissed for Proceeding
2002-03-13 - Opposition instituted for Proceeding
2002-01-10 - Extension Of Time To Oppose Received
2001-12-04 - Published for opposition
2001-11-14 - Notice of publication
2001-08-23 - Approved for Pub - Principal Register (Initial exam)

Latest Status Info

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2001-08-23 - Case file assigned to examining attorney
2000-11-23 - Communication received from applicant
1999-10-21 - Amendment to Use approved
1999-11-23 - Communication received from applicant
1999-08-05 - Amendment to use processing complete
1999-03-19 - Amendment to Use filed
1999-06-25 - Divisional processing completed
1999-05-20 - Non-final action mailed
1999-04-27 - Case file assigned to examining attorney

CORRESPONDENCE INFORMATION

Correspondent

Julie Anne Matheson (Attorney of record)

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EXHIBIT 5

Froogle

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[My Shopping List](#)



[Web](#) [Images](#) [Groups](#) [News](#) [Froogle](#) [Local](#)^{New!} [more »](#)

[Advanced Froogle Search](#)
[Preferences](#)
[Froogle Help](#)

froo·gle (fru'gal) *n.* Smart shopping through Google.

A few of the items recently found with Froogle:

irish flag	stool	shoe horn	ansel adams poster	pottery wheel
karate uniform	embroidery machine	martial arts shoes	ninja costume	printer cable
fuel injectors	lye soap	foam board	home theater system	cowbell
football cleats	hammock stand	t-shirt	cactus	lanyard
fleece vest	laminator	electric blanket	usb cd writer	lava lamp

[Google Home](#) - [Information for Merchants](#) - [About Google](#)

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EXHIBIT 6



Froogle (BETA)

[Search Froogle](#)[About Froogle](#)[All About Google](#)[Frequently Asked Questions](#)

[Take the tour
to learn more](#)

Find on this site:

1. [How does Froogle do what it does?](#)
2. [What are the "Sponsored Links" on the right side of the page?](#)
3. [How does Froogle compare with other sites?](#)
4. [How do I buy something from Froogle?](#)
5. [I want more control over my results. Would you move over so I can drive?](#)
6. [How do I search for products within a particular category?](#)
7. [Why are my results separated into two groups?](#)
8. [I don't see my favorite lemur supply store on Froogle. Can you add it?](#)
9. [I sell prosimian supplies online. How do I get them included in Froogle?](#)
10. [You know what Froogle should do? Let me tell you. Whom do I email?](#)
11. [Froogle? What kind of name is that anyway? And who's "Beta"?](#)
12. [What are Froogle Store Ratings and Product Reviews?](#)
13. [I know a great website that rates stores or products. How do I get it added to Froogle?](#)
14. [I work for a ratings site whose data appears on Froogle. We have some questions regarding our content and Froogle.](#)
15. [What is Froogle Shopping List?](#)
16. [Is my Froogle Shopping List private?](#)

About Froogle

Froogle is a new service from Google that makes it easy to find information about products for sale online. By focusing entirely on product search, Froogle applies the power of Google's search technology to a very specific task: locating stores that sell the item you want to find and pointing you directly to the place where you can make a purchase.

To use Froogle, look for the Froogle Product Search box on the [advanced search page](#) or go directly to the [Froogle home page](#). Type in the name of the item you want to find and click on "Froogle Search." Almost instantly, you'll see photos of relevant products and links to the stores that sell them. Or you may choose to browse through the merchandise categories listed on Froogle's home page until you find exactly the item you want to buy.

As with all other Google search results, Froogle ranks store sites based only on their relevance to the search terms you've entered. Google does not accept payment for placement within our actual search results, and advertising that appears to the right of Froogle search results is always clearly identified with the label "Sponsored Links."

Frequently Asked Questions

1. How does Froogle do what it does?

As Google's spidering software crawls the Internet, it automatically identifies webpages that offer products for sale. These are the pages Froogle searches when you enter the name of an item you want to find. Froogle also includes product information submitted electronically by merchants. If you're interested in providing information about your products to Froogle as a data feed, please visit our [Information for Merchants page](#).

Froogle's search results are automatically generated by our ranking software. Google does not accept payment for inclusion of products in our search results. Nor do we offer

to place a merchant site higher in the results if they are an advertiser or offer to pay for that placement.

Because most aspects of Froogle are automated — including the matching of images and text — you may occasionally see a picture that doesn't match the description next to it. If that happens, simply click on the result link to visit the store's web site for the most up-to-date information. As we continue to work on the technology behind Froogle, we expect the results to become even more relevant and useful.

2. What are the "Sponsored Links" on the right side of the page?

Sponsored Links are paid advertisements that Froogle displays when they are relevant to the search you've entered. Froogle does not allow merchants to purchase space within the results on the left-hand side of the page. That information is generated automatically by our search engine and delivered in order of its relevance to what you're trying to find. If you're interested in purchasing advertising on Froogle, please visit the [Google AdWords home page](#). If you're a vendor interested in having your products included, please read our [Information for Merchants](#) page.

3. How does Froogle compare with other sites?

Froogle is unlike other sites both because of what it does and because of what it doesn't do. Froogle does provide a lightning quick way to search the largest collection of stores and products on the web. That means if the item you're looking to buy is online, Froogle will likely find it.

Froogle does not sell products or promote partner stores within the search results. There is no shopping cart or wallet into which you can place your credit card information. Nor are there preferred merchants who always show up as the first result regardless of what search you enter. Our job is to find the product you want and point you to the store that sells it. Froogle provides objective results based on our calculation of what's most relevant to your search. We don't accept payment for inclusion in our results themselves, and the advertising that appears to the right of the actual results is clearly labeled as "Sponsored Links."

4. How do I buy something from Froogle?

That's a trick question. You can't buy products directly from Froogle, because Froogle is not a store. Froogle points you to merchants that do offer the products you're looking to buy. Once you click through to the store, that merchant will likely be more than happy to take your order and your credit card number.

5. I want more control over my results. Would you move over so I can drive?

You can change how your results are displayed by providing more information about what you want to find. For example, entering a price range and then sorting by price (from high to low or from low to high) will organize your results in a more useful way. You might also want to try the "grid view" option, which allows you to view 20 product thumbnail images on each results page.

6. How do I search for products within a particular category?

You can narrow your results by category using the 'Search within' feature. For example, a search on "tape" shows categories for both adhesive tape and computer data storage devices. By clicking on the appropriate category link, you'll see only the results for the product you're looking to buy.

7. Why are my results separated into two groups?

Froogle sometimes makes an educated guess about the price and category for a

particular search result based on our analysis of the page on which the item appears. When we can't confirm price and category information for results, we include those results but separate them from the other results with a horizontal line.

8. I don't see my favorite lemur supply store on Froogle. Can you add it?

Our goal is to make Froogle the most comprehensive source of information about products online. Your suggestions for stores to add will help us achieve that. Please send your suggestions to froogle-support@google.com. Be sure to include the name and URL (web address) for each store and a brief description of what they sell. Please note that for a variety of reasons, we are unable to crawl some stores' websites, so it may not always be possible to honor your request.

9. I sell prosimian supplies online. How do I get them included in Froogle?

If you have a website where people can buy products, please visit our [Information for Merchants](#) page.

10. You know what Froogle should do? Let me tell you. Whom do I email?

We always love to hear from our users and we read all the mail we receive. If you have a question, comment, suggestion, or complaint, please send an email to froogle-support@google.com.

11. Froogle? What kind of name is that anyway? And who's "Beta"?

Froogle is a play on the word "frugal," meaning thrifty, and the name "Google," which has come to stand for excellence in search technology. "Google" is itself a play on the word "googol," which is the term for the number 1 followed by 100 zeroes. So you might say "Froogle" is a play within a play. "Beta" is geek speak for a pilot program or test version of a product. It means that the Froogle you see today is likely to evolve and improve over time. You can help with that process by sending your suggestions to froogle-support@google.com.

12. What are Froogle Store Ratings and Product Reviews?

Froogle Store Ratings and Product Reviews can help you learn more about the stores and products you find on Froogle. Google's technology scours the web and identifies relevant information about these stores and products, and offers you this information in the form of snippets of reviews from independent ratings sites (if you want to read a full review, you can click through to the site itself). Froogle uses computer algorithms to calculate an overall rating for a store or product by combining data from multiple rating sites.

13. I know a great website that rates stores or products. How do I get it added to Froogle?

Please email your ideas for ratings sources to froogle-ratings@google.com. While we can't guarantee that we will add all sources that are recommended, we will review all the suggestions we receive.

14. I work for a ratings site whose data appears on Froogle. We have some questions regarding our content and Froogle.

Please contact us at froogle-ratings@google.com. We're pleased to work with individual websites to ensure their content is appropriately represented in Froogle.

15. What is Froogle Shopping List?

Froogle Shopping List lets you save and share information about the products you find on Froogle. If you find a product you want to keep close at hand, just click on "Add to list" and you'll be able to bring it up again quickly (first you'll need to create a Google Account if you haven't already done so). You can also write notes to yourself, and sort products by price, title and the date they were added to your list. Your Shopping List is stored online at Froogle, so you can log in and access it from any computer.

If you want to share your list with friends or family, you can create a Wish List that's accessible to others. Just check the "In Wish List" checkbox next to the item. Your Wish List is the public part of your Shopping List and will be accessible to anyone who searches for your e-mail address on the Froogle Shopping List homepage. You can also email the URL with your Wish List to others. (If you send out your Wish List a few weeks before Christmas or your holiday, you may never again receive an orange and green plaid sweater for a present.)

16. Is my Froogle Shopping List private?

The items on your Froogle Shopping List are visible only when you sign in, unless you choose to share them on your publicly accessible Wish List. Google stores your Shopping List information on its own servers so that you can access it from any computer. We do not sell or share any of your personal information.

For more information about how Google processes and maintains your Shopping List and other personal information, please see [Google Privacy Policy](#).

The Froogle service is provided AS IS and Google expressly disclaims to the fullest extent permitted by law all express, implied, and statutory warranties regarding the information included therein. Under no circumstances shall Google be liable to any user on account of their use, misuse, or reliance on the Froogle service.



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